

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Development of Nationwide Broadband Data)	
to Evaluate Reasonable and Timely)	
Deployment of Advanced Services to All)	WC Docket No. 07-38
Americans, Improvement of Wireless)	
Broadband Subscribership Data, and)	
Development of Data on Interconnected)	
Voice over Internet Protocol (VoIP))	
Subscribership)	

To: The Commission

COMMENTS OF NATIVE PUBLIC MEDIA

Native Public Media (“NPM”) respectfully submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) released by the Federal Communications Commission (“FCC” or “Commission”) seeking comment on how it can ensure that it receives sufficient information about the availability and deployment of broadband services nationwide, particularly in rural and hard-to-serve areas, including tribal lands.¹ NPM appreciates the Commission’s particular focus on and interest in gathering information on the status of deployment of broadband services on tribal lands.² In response to a Notice of Inquiry³ released

¹ *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, FCC 07-17 (rel. Apr. 16, 2007) (“NPRM”).

² *Id.* ¶¶ 1, 25, 29, 37-40, 42-44, 47.

³ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, GN Docket No. 07-45, FCC 07-21 (rel. Apr. 16, 2007) (“Broadband Deployment NOI”).

on the same day as the NPRM, NPM filed comments urging the Commission to undertake a study of various communications services available on tribal lands, noting that the results of such a study could provide the Commission with empirical data necessary to guide its future policymaking with respect to services delivered by and for Native American tribes.⁴ NPM believes that, in addition to this study, the Commission should expand and refine the data gathered annually on FCC Form 477 to better determine the extent and nature of broadband deployment and adoption on tribal lands, and in other communities where Native Americans reside.

I. Background

NPM represents the interests of 33 public radio stations serving Native nations and communities throughout the United States.⁵ Since its launch in 2004, NPM's primary focus has been strengthening existing Native American public radio stations and promoting ownership for more Native communities by serving as an advocate, national coordinator, and resource center. NPM recognizes that profound changes are taking place in the way Americans communicate and consume media, and is therefore focused not only on the needs of Native American radio

⁴ See NPM Comments on *Broadband Deployment NOI* (filed May 16, 2007) ("*NPM Broadband Deployment Comments*"). NPM asserted that the study should assess access to and adoption of both narrowband and broadband Internet access services, the tiers and packages of services available, the pricing of such services, and whether tribes own and/or operate the facilities used to provide the services. Such data would help tribes and others concerned about Internet access on tribal lands to determine which technologies are most promising for future broadband deployment in tribal areas. NPM hereby incorporates its comments in response to the *Broadband Deployment NOI* by reference thereto. For the convenience of the Commission and FCC staff, a copy of the *NPM Broadband Deployment Comments* is attached as Appendix A.

⁵ NPM, formerly known as the "Center for Native American Public Radio," was created as a center under the National Federation of Community Broadcasters with seed funding from the Corporation for Public Broadcasting ("CPB").

stations, but also on helping Native America leverage new digital and wireless platforms.⁶ Improving the communications infrastructure on tribal lands is critical to the self-government, economic development, and nation-building objectives of Native nations. Native nations, as sovereign governments engaged in the exercise of modern self-determination, are responsible for the health, safety, and welfare of their citizens. They are responsible for policing and securing the homeland within their borders, including several regions along international borders; maintaining and sustaining their sacred histories, languages, and traditions; ensuring that young citizens can actively pursue educational opportunities and participate in the world beyond the reservation boundaries; and establishing and fostering healthy economies. In spite of the importance of communications to Native nation building, most communities remain unserved and underserved in both the media and telecommunications areas. A mere 33 of the 562 federally recognized tribes have public radio stations.⁷ Moreover, only 68% of households on tribal lands have a telephone; only eight tribes own and operate telephone companies; and broadband penetration on Indian lands is estimated at less than 10%.⁸

⁶ Among other things, with increased broadband penetration on Native lands, NPM member stations can use their web sites to usher in a new wave of Native American voices and images through listener blogging, chatting, and downloading and uploading audio and video streams. Internet-based complements to free over-the-air programming will be irrelevant, however, if most NPM listeners lack access to advanced telecommunications capability.

⁷ NPM also has requested that the Commission undertake a study of Native American ownership of media outlets, either upon the establishment of an FCC Indian Desk or as part of its broadcast ownership proceeding. See Reply Comments of Native Public Media in MB Docket No. 06-121, *2006 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996* (filed January 16, 2007) at 3, 14 (“NPM Media Ownership Reply Comments”) (The Commission should “[t]rack, compile, and publish accurate data on the number of commercial and non-commercial broadcast licenses held by Native Nations, tribal organizations, and individual Native Americans.”)

⁸ See Hearing Testimony of NCAI President Joe Garcia before the Senate Committee on Commerce, Science, and Transportation, March 7, 2006 at 1-2.

The NPRM seeks comment on several data collection issues that are relevant to ultimately improving broadband deployment and adoption on tribal lands and among Native Americans residing in other communities. Below, NPM addresses the Commission's requests for comment on the sufficiency of currently-available data and proposals for refining its analysis of broadband deployment and availability. Although some of the changes being contemplated by the Commission will allow policymakers and the public to know more about the nature and extent of broadband deployment and availability in the U.S., these data collection changes will only supplement, not obviate, a separate study on the availability and adoption of both narrowband and broadband Internet access on tribal lands.

II. The Commission Has Identified Several Meritorious Proposals for Increasing Available Data and Refining Its Analysis of Broadband Deployment and Availability

Wireless Broadband Data. The Commission asks whether it should take steps that will enable it to distinguish among long-term subscribers to wireless broadband Internet packages and casual users.⁹ NPM supports this change because, absent such a distinction, the Commission's data may over-report the extent of wireless broadband adoption, thereby hindering the efforts of the Commission and other policy makers to make well-informed legal, policy, and regulatory decisions. Accordingly, the Commission should require mobile wireless providers to "report, separately, the number of month-to-month (or longer term) subscriptions to broadband Internet access service designed for wireless devices that have [full Internet browsing]" and to report, separately, the number of subscribers who are only occasional users of such services.¹⁰

⁹ NPRM ¶¶ 11-14.

¹⁰ *Id.* ¶ 14.

Speed Tiers. The Commission asks, among other things, whether it should raise the current minimum threshold for reporting connections on Form 477, which is presently set at an information transfer rate of least 200 kbps in either direction.¹¹ NPM urges the Commission to retain the current threshold. At this time, Native American subscribers to Internet access are more likely to be narrowband subscribers than to be subscribers to broadband at any speed. NPM looks forward to a time when the question being asked by tribal governments is not how many of their residents have broadband, but how fast their broadband connections are. In the meanwhile, however, having information about broadband offerings, even at the slower end of the speed spectrum, can be a useful tool.

Uptake Calculations. The Commission seeks comment on whether it should require all broadband providers to report both the number of homes passed by their broadband-enabled infrastructure and the number of residential customers served, stating that such data would allow it to calculate and compare consumer uptake figures.¹² NPM supports such a reporting requirement and agrees that it will permit the Commission to analyze broadband uptake. Such data could be useful in identifying areas where uptake is low and designating them for further study to determine whether factors other than availability, such as the price of service, are hindering adoption. NPM also supports the Commission's related proposal to gather price information to evaluate competitive choice and compare consumer uptake data to price information.¹³ NPM urges the Commission to gather price information for the full range of service options. Data gathering on price should not be limited only to cable modem and DSL

¹¹ *Id.* ¶ 19.

¹² *Id.* ¶ 28.

¹³ *Id.* ¶¶ 44-46.

services,¹⁴ and should include prices for satellite and wireless broadband offerings. As NPM and others have observed, tribal lands are often rural, have low population densities, or are characterized by rugged terrain.¹⁵ Such areas would likely be served more efficiently by satellite and wireless technologies, which can be deployed with less investment in extensive infrastructure than would “wired” broadband service offered by a cable operator or local exchange carrier. Accordingly, research on price information concerning only cable and DSL will not provide sufficient data on the prices of services on tribal lands.

Correlating Existing Data to Demographic Factors. The Commission states that it has identified a commercial vendor to translate Census Bureau data into Zip Code-level data so that it can analyze its Form 477 data by population density and income. It seeks comment on whether there are commercial products that would translate Census Bureau data on other demographic factors, such as household education, race, disability status, and residency on tribal lands, into Zip Code-level data.¹⁶ NPM is not aware of commercial products with such capabilities. If no such commercial products are identified in this proceeding, NPM urges the Commission to issue a request for proposals and contract with the commercial vendor that can translate such data at an efficient rate. This data will be extremely useful in identifying broadband availability and adoption for various segments of the U.S. populations, including

¹⁴ *Id.* ¶ 45 (“Would it be sufficient to collect price information only for cable and DSL services?”).

¹⁵ See *NPM Broadband Deployment Comments* at 5; Ted Jojola, Physical Infrastructure and Economic Development, Prepared for the National Congress of Indians Policy Research Center at 3 (May 2007) (wireless technologies are viewed as “integral to surmounting barriers such as geographic isolation and low population densities” on Indian lands); United States Government Accountability Office, *Challenges to Assessing and Improving Telecommunications for Native Americans on Tribal Lands*, GAO-06-189 (Jan. 2006) at 5-6 (“GAO Tribal Telecommunications Report”) (observing that some tribes have focused primarily on developing wireless technologies because they “can be less expensive to deploy over long distances and rugged terrain”).

¹⁶ *NPRM*. ¶ 29.

populations on tribal lands and Native Americans living in other communities. Commission awareness of the extent and nature of broadband availability and adoption among various segments of the population will be an important step towards ensuring reasonable and timely access for all Americans.

Granularity of Data. The Commission asks whether Form 477 data filers should be required to submit 9-digit Zip Codes and associated customer counts.¹⁷ NPM believes that, if such data is maintained by Form 477 filers, it should be reported. This additional level of detail will help avoid overestimation of the number of Americans with broadband access. As the Commission has observed, however, the boundaries of Native nations do not necessarily correspond to Zip Code boundaries.¹⁸ Thus, a separate, tribe-specific study is necessary. Two of the approaches outlined by the Commission in the NPRM hold promise for the study of broadband services on tribal lands: the proposal to generate broadband-enabled service territory reports by provider;¹⁹ and the proposal to use weighted extrapolation techniques from specific areas, including tribal lands, to evaluate nationwide competitive conditions.²⁰ NPM urges the Commission to adopt both proposals and to use them to evaluate broadband conditions in Native nations.

Although NPM doesn't have the resources to assess the costs of generating broadband-enabled service territory reports,²¹ NPM submits that such reports would represent the first effort to study broadband deployment on tribal lands, which will yield tremendous benefits for tribal

¹⁷ *Id.* ¶ 31.

¹⁸ *Id.* ¶ 37 & n.70 (citing GAO Tribal Telecommunications Report at 17).

¹⁹ *Id.* ¶¶ 35-37.

²⁰ *Id.* ¶¶ 39-44.

²¹ *Id.* ¶ 35 (asking for cost-benefit analysis of generating broadband-enabled service territory reports by provider).

governments and other policymakers hoping to promote affordable, competitive broadband markets in Native nations. NPM urges the Commission, through its tribal liaison, to consult with individual tribes on its extrapolation proposal.²² NPM believes that household demographic information should be gathered, including information on tribal status, and that such information should be used to “illustrate the relationship between those factors and broadband adoption.” Although NPM does not take a position on which tribes should be selected for the extrapolation study, NPM urges the Commission to study more than one tribe, and to select at least one tribe that is *not* among the tribes visited by GAO in preparation of its report.²³ This will provide the Commission with more representative information than focusing on only one tribe or on tribes that already have been identified as having the resources to make improvements to their telecommunications infrastructure.

Self-Reporting. The Commission seeks comment on the feasibility and value of establishing a voluntary self-reporting system for households not served by broadband, which would be patterned after the Do-Not-Call Registry.²⁴ Although such self-reporting will not be a substitute for changes to the Commission's current data gathering efforts, it could serve as a useful supplement to those efforts, and might provide the Commission with better information about why broadband is not being adopted in areas where it is available.

²² Such consultation would be consistent with the unique government-to-government and trust relationship with federally-recognized Native nations, a relationship acknowledged by the Commission's *Tribal Policy Statement*. See *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, 16 FCC Rcd 4078, 4081 (2000). Among other things, the Commission's policy recognizes “the rights of Indian Tribal governments to set their own communications priorities and goals for the welfare of their membership.”

²³ *NPRM* ¶ 44.

²⁴ *Id.* ¶ 34.

III. Conclusion

Changes to the Commission's broadband data collection procedures and additional analyses will allow the Commission, Congress, and Native nation governments to make informed and effective decisions about how to spur broadband deployment and adoption on tribal lands. Given the dearth of available information, additional data gathering on FCC Form 477, further analysis of that data, and a separate study of both narrowband and broadband Internet access on tribal lands is warranted. NPM urges the Commission to adopt the proposals discussed above and to undertake a separate tribal Internet access study. Identifying and removing barriers to broadband deployment is critical to Native nations' ability to secure their homelands, educate their citizens, and maintain and grow their economies.

Respectfully submitted,

NATIVE PUBLIC MEDIA

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Appendix A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Inquiry Concerning the Deployment of)	
Advanced Telecommunications Capability to)	
All Americans in a Reasonable and Timely)	GN Docket No. 07-45
Fashion, and Possible Steps to Accelerate)	
Such Deployment Pursuant to Section 706 of)	
the Telecommunications Act of 1996)	

To: The Commission

COMMENTS OF NATIVE PUBLIC MEDIA

Native Public Media (“NPM”) respectfully submits these comments in response to the Notice of Inquiry (“NOI”) released by the Federal Communications Commission (“FCC” or “Commission”) seeking comment on the current status of the deployment of advanced telecommunications capability in the United States and ways that the Commission can accelerate such deployment.¹ NPM appreciates the Commission's particular focus on and interest in the status of deployment of advanced telecommunications capability on tribal lands.² Focusing on the advanced services deployment in Native nations is consistent with the Commission’s obligation to ensure deployment of such services to “all Americans” in a reasonable and timely fashion.³ Efforts to measure and ensure deployment of such services also should be guided by the unique government-to-government and trust relationship with federally-recognized Native

¹ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, GN Docket No. 07-45, FCC 07-21 at ¶ 27 (“NOI”).

² *Id.* ¶¶ 27, 30, 33.

³ *See* § 706 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (“1996 Act”), 47 U.S.C. § 157.

nations, a relationship acknowledged by the Commission's *Tribal Policy Statement*.⁴ Given the lack of information available about deployment of advanced telecommunications capability on tribal lands and the high likelihood that such deployment is seriously deficient as compared to services available in other areas, NPM urges the Commission to undertake a study of various communications services available on tribal lands. The study should assess access to and adoption of both narrowband and broadband Internet access services, as well as tribal ownership of the facilities used to provide such services. The results of such a study could provide the Commission with empirical data necessary for its future policymaking with respect to services delivered by and for Native American tribes.

NPM represents the interests of 33 public radio stations serving Native nations and communities throughout the United States.⁵ Since its launch in 2004, NPM's primary focus has been strengthening existing Native American public radio stations and promoting ownership for more Native communities by serving as an advocate, national coordinator, and resource center. NPM recognizes that profound changes are taking place in the way Americans communicate and consume media, and is therefore focused not only on the needs of Native American radio stations, but also on helping Native America leverage new digital and wireless platforms.⁶

⁴ *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, 16 FCC Rcd 4078, 4081 (2000). Among other things, the Commission's policy recognizes "the rights of Indian Tribal governments to set their own communications priorities and goals for the welfare of their membership."

⁵ NPM, formerly known as the "Center for Native American Public Radio," was created as a center under the National Federation of Community Broadcasters with seed funding from the Corporation for Public Broadcasting ("CPB").

⁶ Among other things, with increased broadband penetration on Native lands, NPM member stations can use their web sites to usher in a new wave of Native American voices and images through listener blogging, chatting, and downloading and uploading audio and video streams. With existing and emerging technologies, NPM's member stations are poised to become even greater hubs of communication in their communities by complementing their local and national on-air offerings with on-demand and interactive (footnote continued)

Improving the communications infrastructure on tribal lands is critical to the self-government, economic development, and nation-building objectives of Native nations. Native nations, as sovereign governments engaged in the exercise of modern self-determination, are responsible for the health, safety, and welfare of their citizens. They are responsible for policing and securing the homeland within their borders, including several regions spanning international borders; maintaining and sustaining their sacred histories, languages, and traditions; and establishing and fostering healthy economies. In spite of the importance of communications to Native nation building, most communities remain unserved and underserved in both the media and telecommunications areas. A mere 33 of the 562 federally recognized tribes have public radio stations.⁷ Moreover, only 68% of households on tribal lands have a telephone; only eight tribes own and operate telephone companies; and broadband penetration on Indian lands is estimated at less than 10%.⁸

The NOI seeks comment on the availability of advanced telecommunications capability to individuals living on tribal lands. In particular, the NOI asks for information on: whether advanced services, where available, are being deployed to all or only to a limited number of consumers on tribal lands; any unique challenges associated with the deployment of advanced

news, information, and programming. Internet-based complements to free over-the-air programming will be irrelevant, however, if most NPM listeners lack access to advanced telecommunications capability.

⁷ NPM also has requested that the Commission undertake a study of Native American ownership of media outlets, either upon the establishment of an FCC Indian Desk or as part of its broadcast ownership proceeding. See Reply Comments of Native Public Media in MB Docket No. 06-121, *2006 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996* (filed January 16, 2007) at 3, 14 (“*NPM Media Ownership Reply Comments*”) (The Commission should “[t]rack, compile, and publish accurate data on the number of commercial and non-commercial broadcast licenses held by Native Nations, tribal organizations, and individual Native Americans.”)

⁸ See Hearing Testimony of NCAI President Joe Garcia before the Senate Committee on Commerce, Science, and Transportation, March 7, 2006 at 1-2 (“*NCAI Testimony*”).

services in tribal areas; whether such challenges differ from those facing other rural areas; what kinds of technology are being used to provide advanced services on tribal lands; and which technologies are most widely available on tribal lands, and why.⁹ The NOI acknowledges that there may be a lack of information about subscribership to Internet access services by households on tribal lands, citing a GAO survey which concludes that this information is unknown and untracked by any federal survey.¹⁰ The Commission also asks which technologies are most promising for future broadband deployment in tribal areas.¹¹

NPM agrees that there is insufficient data available regarding broadband Internet access on tribal lands, not only in terms of subscribership, but in terms of the types, tiers, and packages of services available, the challenges to deployment and adoption of broadband Internet access service, and the kinds of technology most widely deployed on tribal lands. Without answers to these questions, it is difficult to define the scope and nature of the problem of broadband deployment on tribal lands and to develop solutions. For example, in areas of Native nations where there is no broadband service available, barriers to provision of service could be identified, and technical, economic, or other issues could be addressed and eliminated or mitigated. Or, if there are areas where high-speed Internet access is available, but subscription rates are low because of the cost of service, then steps to address high costs would be required. Without adequate information regarding the current state of broadband availability and affordability on tribal lands, however, it is difficult for the Commission, tribes, or private sector

⁹ NOI ¶ 27.

¹⁰ *Id.* (citing United States Government Accountability Office, *Challenges to Assessing and Improving Telecommunications for Native Americans on Tribal Lands*, GAO-06-189 (Jan. 2006) ("GAO Tribal Telecommunications Report")).

¹¹ NOI ¶ 27.

providers to determine how best to establish a broadband marketplace flourishing with competition and consumer choice for tribal residents.

The Commission has identified many of the key questions that need to be addressed in a full-fledged empirical study of Internet access and usage on tribal lands. NPM urges the Commission to undertake a detailed empirical study that would answer all of the questions it has raised in its NOI. In addition to addressing these questions, such a study should determine what tiers and packages of services are available at what prices, and should address tribal ownership and control of telecommunications facilities. This kind of data would help tribes and others concerned about Internet access on tribal lands to determine which technologies are most promising for future broadband deployment in tribal areas.¹² At this time, NPM believes that wireless and satellite technologies hold the greatest promise for deploying broadband on tribal lands because they are often rural, have low population densities, or are characterized by rugged terrain.¹³ Such areas would likely be served more efficiently by satellite and wireless technologies, which can be deployed with less investment in extensive infrastructure than would “wired” broadband service offered by a cable operator or local exchange carrier.

Only further study will determine how the Commission can best accelerate deployment of telecommunications capability on tribal lands as required by Section 706 of the 1996 Act. NPM

¹² NOI ¶ 27.

¹³ As NPM has stated elsewhere, it supports Commission efforts to identify additional spectrum that will bring broadband and other wireless services to Native American communities. *See NPM Media Ownership Reply Comments* at 7 n. 10. *See also* Ted Jojola, Physical Infrastructure and Economic Development, Prepared for the National Congress of Indians Policy Research Center at 3 (May 2007) (wireless technologies are viewed as “integral to surmounting barriers such as geographic isolation and low population densities” on Indian lands); GAO Tribal Telecommunications Report at 5-6 (observing that some tribes have focused primarily on developing wireless technologies because they “can be less expensive to deploy over long distances and rugged terrain”).

urges the Commission to undertake such a study in order to identify barriers to broadband investment, deployment and adoption on tribal lands. Eliminating these barriers is critical to Native nations' ability to secure their homelands, educate their citizens, and maintain growing economies.

Respectfully submitted,

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